STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Michigan Head and Spine Institute
Petitioner **File No. 21-1759**

v

Auto Club Group Insurance Company
Respondent

Issued and entered
this 31st day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 23, 2021, Michigan Head and Spine Institute (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Group Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on November 7 and 11, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 24, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 24, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 7, 2021. The Department issued a notice of extension to both parties on January 5, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 21, 2021.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on June 24, 2021 and July 14, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110, 97112, 97140, 97530, and 97535, which are described as therapeutic exercise, neuromuscular reeducation, manual therapy, functional performance activities, and health care instruction, respectively. In its *Explanation of Benefits* letters, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines and noted that "the quantity of therapy has exceeded the guideline recommendations."

With its appeal request, the Petitioner submitted supporting documentation which stated that the injured person was referred to physical therapy for "lumbar pain with symptoms radiating to the bilateral lower extremities and into the ankles" in relation to a motor vehicle accident (MVA) in June of 2004. The Petitioner stated that the injured person "has been showing slow and steady progress" with treatment. The Petitioner further stated that, as of July 14, 2021, the injured person continued to report "significant" low back pain at a level of 7-8 on a 10-point pain scale, as well as bilateral lower extremity symptoms at 6/10 "with exacerbations upon bending forward for daily activities."

The Petitioner's request for an appeal stated:

> [The injured person] has not been given the chance to maximize on all treatment modalities. There is [lumbar] equipment…she has been using that is only available in the clinic…Her lumbar rehabilitation is complicated as well by her severe migraines…She has an Oswestry Disability Score of 70% on 6/24/2021 which is an improvement from a score of 82% during the initial evaluation on 4/30/2021.

In its reply, the Respondent reaffirmed its position and stated that ACOEM guidelines for the low back recommend 4 to 6 physical therapy appointments to initiate an exercise program. The Respondent noted that massage may be used selectively as an "adjunct to more efficacious treatments consisting primarily of a graded aerobic and strengthening exercise program" and with evidence of objective improvements. The Respondent noted that the injured person received 21 sessions of physical therapy for low back pain and concluded that the submitted medical records do not support the treatments at issue.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a licensed physical therapist who is experienced with treating the type of diagnosed conditions at issue. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on Official Disability Guidelines (ODG) for auto injury regarding low back conditions and American Physical Therapy Association (APTA) practice guidelines for its recommendation.

The IRO reviewer explained that the injured person was diagnosed with low back pain and lumbar radiculopathy, and noted that her care plan from June 24, 2021 indicated therapy 3 times per week over a range of 6 weeks. The IRO reviewer further explained:

> It was documented [that the injured person] had attended 16 total visits. Documented physical findings included lumbar flexion 45° with pain, extension 5° with pain, right side bending 10° with pain, left side bending 10° with pain, right rotation 25° with pain, left rotation 25° with pain; decreased lordosis; motor strength right hip flexion 3+/5 with pain, left flexion 3+/5 with pain, right extension 3/5 with pain, left extension 3/5 with pain; motor strength right knee extension 3+/5 with pain, left extension 3+/5 with pain; left straight leg raise 60° with pain, right straight leg raise 55° with pain; unable to perform heel and toe walks, unable to squat.

The IRO reviewer stated that as of July 14, 2021, the injured person had attended 21 physical therapy sessions. The IRO reviewer noted that the injured person "reported lower back pain and bilateral lower extremity pain which had improved in the past week, but still had low endurance to activities" and disrupted sleep. The IRO reviewer stated that the injured person complained of lower back pain characterized as "sharp with 100% spasms" and noted that "there were no documented physical findings."

The IRO reviewer opined:

> According to ODG, 10 visits of physical therapy over 8 weeks is recommended for treatment of the [injured person's] condition. Fading of treatment frequency is also recommended plus active self-directed home physical therapy (PT). This is in accordance with APTA guidelines …The notes from the [Petitioner] do not establish medical necessity for treatment beyond the recommended visits of 10 over 8 weeks as there was no documentation of comorbidities. There were also no documented reasons as to why the [injured person] could not continue therapy with a home exercise program.

The IRO reviewer recommended that the Director uphold the Respondent's determination that the physical therapy treatments provided to the injured person on June 24, 2021 and July 14, 2021 were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent's determinations dated November 7 and 11, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford